

No. 21-6380

IN THE UNITED STATES SUPREME COURT

SAMMY LEE GIBBS VS. WILLIAM HAMILTON, et. al...

PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, Sammy Lee Gibbs, a Florida prisoner presents this Petition for Rehearing in good faith and not for delay. This case came to this Honorable Court via (28 U.S.C. § 1257 (a)).

The following extraordinary circumstances warrant granting rehearing.

The first ground question whether Florida has suspended illegally the Constitutional privilege of Habeas Corpus.

Gibbs properly invoked the Habeas Corpus jurisdiction of Florida's Fifteenth Judicial Circuit Court by filing pursuant to Florida Statute 79.01 and 79.09, Article 1, Section(s) 13.21 and Article 5 Section 5(b) Florida Constitution. Three copies of the Petition for Writ of Habeas Corpus, a forty dollar check for civil service and a summons for service. Properly challenging the validity of Gibb's detention on an illegally amended indictment after it was passed down by a grand jury adding the offense of "attempted first degree felony murder" to the TRUE BILL of the grand jury. The illegal amendment arrested the power of the Florida Court to proceed, entitling Gibb's, a Florida prisoner, to discharge by Petition for Writ of Habeas Corpus.

The Florida Court in an unconstitutional exercise of authority recharacterized Gibb's Writ of Habeas Corpus to his demise transferring it from Palm Beach civil court placed in CALHOUN County Criminal Court as a Rule 3.850, knowing relief is procedurally barred if

filed more than two years after judgment became final closing the Habeas Corpus case number and ordering the Clerk to not docket on that case number suspending the Writ of Habeas Corpus, drawing into question the validity of Florida statute 79.01 and 79.09 on the ground of being repugnant to the Constitution. (See, Article 1, Section 9, First and Fourteenth Amendment), amounting to denial of due process and the right to seek redress of grievance (LIFE SENTENCE).

Gibbs raises the possibility that there is reason to believe that facts demonstrate a constitutional violation, “it is the duty of the court to provide the necessary facilities and provide for an adequate inquiry.” Harris v. Nelson, 394 U.S 286, at 298 (1969). This Court has authority to look at the whole record. Rehearing should be granted and further proceedings ordered.

Ground Two question whether Florida law or Federal law controls the validity of the construction of Habeas Corpus?

Habeas Corpus presents a question of Federal law not controlled by the law of the state. Florida Supreme Court has stated in Baker v. State, 878 So.2d 1236 (Fla. 2004) “The remedy of Habeas Corpus is not available in Florida”. “Rule 3 was created to supersede Habeas Corpus” is repugnant to the U.s. Constitution, Article 1, § 9, cl. 2, arbitrary and lawless state action. Habeas Corpus role is recognized by the admonition in the Constitution that: **The privilege of the Writ of Habeas Corpus shall not be suspended.** The protections intended to be afforded by the Constitutional privilege to Habeas Corpus were not available to Gibbs, due to circumstances causing the justice system to fail to function properly. Rehearing should be granted to correct this miscarriage of justice that has surfaced within the Court’s reach.

GROUND THREE whether Rule 3 draws into question the validity of the Constitutional privilege of the Writ of Habeas Corpus?

The Writ of Habeas Corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action. Harris v. Nelson, 394 U.S. 286, 290-291 (1969) Florida has suspended superseded Habeas Corpus with the arbitrary and lawless creation of Rule 3. This Court has the authority to correct this unconstitutional exercise of rulemaking that's repugnant to the U.S. Constitution, Article 1, § 9, cl.2. The ALL WRITS statute (28 U.S.C § 1651) extends to habeas corpus proceedings and authorizes the courts to fashion appropriate modes of procedure by analogy to existing rules or otherwise in conformity with judicial usage; where their duties require it, this is the inescapable obligation of the courts. Petition for Rehearing should be granted.

Sammy Lee Gibbs
Sammy Lee Gibbs

NOTARY

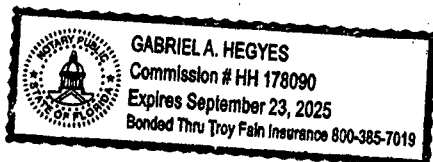
STATE OF FLORIDA

COUNTY OF PALM BEACH

Sworn and subscribed to before me by Sammy Lee Gibbs, in my presence, took an oath and did produce identification on this 21st day of March, 2022.

Seal

[Signature]
Signature



CERTIFICATION

I, Sammy Lee Gibbs, a Florida prisoner hereby certify that this Petition for Rehearing presented pursuant to Supreme Court Rule 44 (1) (2) is presented in good faith and not for delay.

This Court has authority defined by 28 U.S.C. § 1257 (a) to address the Florida Supreme Court on the parts of Rule 3 that completely superseded/suspended Habeas Corpus as a means to collaterally attack a judgment and sentence in Florida as repugnant to the fundamental constitution's safeguard of the unconstitutional exercise of arbitrary authority under constitutional authority. "So be it."

Sammy Lee Gibbs # 580345

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT

Supreme Court Rule 29.6 requires that a certificate of interested persons and Corporate Disclosure Statement must be filed.

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| Honorable Donald Hafele | 15 th Judicial Circuit, Palm Beach, Florida |
| Honorable Howard K. Coates, Jr. | 15 th Judicial Circuit, Palm Beach, Florida |
| Honorable Shonna young Gay | 14 th Judicial Circuit, Blountstown, Florida |
| Honorable Lon Weissman | 4 th District Court, Palm Beach, Florida |
| Honorable John A. Tomasion | Florida Supreme Court, Tallahassee, Florida |
| Honorable Celia Terenzio | Assistant Attorney General, Palm Beach, Florida |

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CERTIFICATE OF COMPLIANCE

I, Sammy Lee Gibbs hereby comply with the requirements of Rule 44 of the Rules of Court. This Petition is restricted to the grounds specified in the paragraph below.

This Petition for Rehearing is presented in good faith and not for delay.

GROUND ONE

Presents the question of whether Florida has suspended the privilege of Habeas Corpus to challenge an illegal detention in a manner repugnant to the Constitutional function of Article 1, Section 9 of the United States Constitution?

GROUND TWO

Whether the validity of the construction of the Writ of Habeas Corpus is controlled by the law of Florida or Federal law?

GROUND THREE

Whether Rule 3 intended to prohibit Florida Court's from entertaining Habeas Corpus draws into question the validity of the privilege of the Writ of Habeas Corpus?

Sammy Lee Gibbs # 580345